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EXAMINER

GARG, YOGESH C

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/538,466

Applicant(s)

WHITE, DANIEL F

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the features as described in the specification. The drawings must show every feature of the invention specified in the claims or the feature(s) canceled from the claim(s). No new matter should be entered. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the reference sign(s) mentioned in the description.

Three sheets of Drawings with 4 figures have been received. None of these figures match the description given in the disclosure, page 2, under heading, " BRIEF DESCRIPTION OF THE DRAWINGS". FIG.1 depicts a cash register and FIGS. 2-4 disclose access levels of the employees and information about their fingerprints. Copies of these drawings are enclosed with the Office action for your ready reference.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1-2 are objected to because of the following informalities: In lines 8 and 9 on page 15; it appears that the term "code" should follow the term "duplicate".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3 recite the limitation "codes" in line 4 on page 15, and in line 19 on page 15. There is insufficient antecedent basis for this limitation in the claim. Since claim 2 is dependent on claim 1 it inherits the deficiency of claim 1.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claims 1-2, it is indefinite and unclear as how the items in a rack can impart functionality in a system.

With regards to claims 1 and 3, the phrase, "different remote location" renders the claim indefinite as there is no prior mention of a "remote location" with which any later remote location can be compared to denote as "different". Since claim 2 is dependent on claim 1 it inherits the deficiency of claim 1.

With regards to claims 1- 4, it is indefinite and unclear as with what other indicia the codes are being matched.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps et al. (US Patent 5,991,739).

With regards to claims 1-6, Cupps teaches a method and system comprising of maintaining a web page on the Internet, taking orders for food items/merchandise (Note: Application has used food items in the disclosed embodiments and so does Cupps) on the web page and issuing/generating unique identifying codes to persons placing the orders, preparing food in accordance with the orders, placing prepared orders in a bay/rack, each labeled with a respective identifying code and price in human readable format, reading an identifying code from an order, accepting the identifying code from a person and comparing the code brought by the person to the code on the prepared order, and obtaining payment at the checkout station(FIG.12 A-The Word's Largest Take-Out and Delivery Service.....". Note: It is inherent in Take-Out systems that the merchandise/Food items would be kept on racks or shelves. FIGS. 1-13, and col.3, line 49-col.12, line 10, in Cupps disclose ordering of merchandise -food items via maintaining web pages on the Internet. While ordering information like Order number

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and Customer name are entered and it is inherent to use them as identification marks on the invoices to collect the ordered item. In the application, unique code and attached labels refers to identification mark on the invoices to collect the ordered merchandise/Food items. While ordering items on the Internet on web page in Cupps, the order number or the customer's name refer to unique code generated and then delivered to the user's computer at a remote location. The order number available to the user corresponds to the duplicate code in the application and it is inherent that a user will carry with him the identification mark like order number or user's name to the Take-Out service, which is a station to collect the ordered items and use it to identify his ordered merchandise/food item. Attachment of invoices to the item is inherent and the invoices include the unique code number in the form of order number or name, to identify the ordered items and make payment while collecting the food items/merchandise)

Cupps does not disclose if the checkout station is an unmanned station which can sound alarms if the codes do not match and read machine-readable format. Official Notice is taken of both the concept and benefits of unmanned checkout station which can also sound alarm and read machine-readable format. Robotic stations and Automated Teller Machines as admitted prior art by the applicant (see page 9, lines 2-5) were notoriously well known at the time of the invention to check identity, read machine-readable format and sound alarms if the codes do not match. Therefore, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to combine the concept of unmanned checkout station which can read machine-readable

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format and sound alarms if the codes do not match. Doing so would help to cut down the number of workers hence cost of operation and increase the profits.

Conclusion

6. The prior art made of record and considered pertinent to applicant's disclosure.

(i). Press release dated Apr. 8, 1998 and copies of Web pages (total 7 pages) on Food.com web site, and Press releases dated July 10, 1996, March 26, 1997 and March 15, 1998 and copies of web pages (total 11 pages) on Waiter.com web site teach placing orders via web pages on Internet and collecting ordered items from Take-out service station.

(ii) Tice, Carol, " Web Ordering May Alter Role of Distributors", National Home Center News, v 24, n 10, p23-25, June 22, 1998 teaches the use of Web for ordering merchandise.

(iii) US patents 5,845,263 to Camaisa et al., and 6,236,974 to Kolawa et al. disclose ordering on Internet from remote locations.

(iv) US Patent 6,409,081 to Nugent, Jr. discloses a method of operating a self-service checkout terminal.

(v) US Patent 6,102,162 to Teicher teaches an Automated Self-Service Cafeteria System.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Yogesh C Garg
Examiner
Art Unit 3625

YCG
August 2, 2002


WYNN W COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600